

AMENDED IN ASSEMBLY MAY 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 112**

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**Introduced by Committee on Budget (Blumenfield (Chair), Bloom, Bonilla, Chesbro, Daly, Dickinson, Gordon, Jones-Sawyer, Mitchell, Mullin, Muratsuchi, Nazarian, Rendon, Stone, and Ting)**

January 10, 2013

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*An act to amend Sections 12306.1 and 12309 of, to add Sections 12301.01, 12301.02, 12301.03, 12301.04, and 12301.05 to, and to repeal Sections 12301.07 and 12309.2 of, the Welfare and Institutions Code, relating to the Budget Act of 2013 public social services, and making an appropriation therefor, to take effect immediately, bill related to the budget.*

LEGISLATIVE COUNSEL'S DIGEST

AB 112, as amended, Committee on Budget. ~~Budget Act of 2013.~~  
*In-home supportive services.*

*Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services to permit them to remain in their own homes and avoid institutionalization. Existing law requires the State Department of Social Services to implement, under specified circumstances, a 20% reduction in authorized hours of service to each IHSS recipient, beginning January 1, 2012, except as specified.*

*This bill would delete those provisions.*

*Existing law requires the department, until July 1, 2013, to implement a 3.6% reduction in authorized hours of service to each IHSS recipient, as specified.*

*This bill would require the department, from July 1, 2013, to June 30, 2014, inclusive, to implement an 8% reduction in authorized hours of service to each IHSS recipient, as specified. The bill would authorize a county to administratively deny a request for reassessment based only on that reduction. The bill would require a specified notice to be mailed to the recipient at least 10 days before the reduction goes into effect. The bill would also require the department, beginning July 1, 2014, to implement a 7% reduction in authorized hours of service to each IHSS recipient, as specified. The bill would require a specified notice to be mailed to the recipient at least 20 days before the reduction goes into effect.*

*This bill would state the intent of the Legislature to authorize an assessment on home care services, including, but not limited to, home health care and in-home supportive services. This bill would require the Director of Finance, within 30 days after receipt of specified certification from the State Department of Health Care Services, to, among other things, estimate the total amount of additional funding that would be derived from that assessment for the next fiscal year and calculate, as a percentage, the amount by which the 7% reduction in authorized hours of service for each IHSS recipient is offset by General Fund savings from that assessment. The bill would require the department to perform these activities for the fiscal year that the certification is received and the following fiscal year, and on or before May 14, prior to the 3rd fiscal year after the certification is received. This bill would require the 7% reduction in authorized hours of services to be mitigated by the percentage offset determined by the Director of Finance, as specified. The bill would provide for these provisions to become operative only upon certification by the State Department of Health Care Services that any necessary federal approvals have been obtained.*

*This bill would create the In-Home Supportive Services Reinvestment Fund, a continuously appropriated fund, to receive moneys to the extent that the assessment is implemented retroactively, and use those moneys to provide goods or services for one-time direct reinvestments benefiting IHSS recipients, as prescribed. This bill would require the Legislature to approve the initial allocation of moneys from the fund in the annual Budget Act or other legislation. This bill would authorize, under certain circumstances, the amount available for expenditure for this purpose if specified notice is provided to the Legislature.*

*Existing law authorizes a county board of supervisors to elect to contract with a nonprofit consortium to provide for the delivery of IHSS or to establish a public authority to provide for the delivery of IHSS. Under existing law, the state is required to pay 65%, and the county 35%, of the nonfederal share of wage and benefit increases negotiated by a public authority or nonprofit consortium, as specified. Existing law, operative July 1, 2009, requires the state to participate in those wage and benefit increases in a total cost of wages up to \$9.50 per hour and in individual health benefits up to \$0.60 per hour. Existing law provides that those provisions establishing those rates of participation shall not be implemented until July 1, 2012, and shall only be implemented if specified conditions are met.*

*This bill would delete those latter provisions.*

*Under existing law, the department is required to develop a uniform needs assessment tool to assure that IHSS are delivered in all counties in a uniform manner. Existing law requires the uniform needs assessment tool to evaluate the recipient's functioning in activities of daily living and instrumental activities of daily living and quantifies the recipient's functioning ranks using a general 5-point scale for ranking each function, as specified. Under existing law, beginning September 1, 2009, only individuals who are ranked at a 4 or 5 in the activity of daily living relating to a domestic or related service are eligible for that service, except as specified.*

*This bill would delete those latter provisions.*

*Under existing law, beginning September 1, 2009, eligibility for IHSS shall also include functional index scores, which are assigned to a recipient as a weighted average based on his or her individual functional index rankings. Existing law, except as specified, provides that individuals with certain functional index scores are not eligible for IHSS.*

*This bill would delete those provisions.*

*The bill would appropriate \$1,000 from the General Fund to the State Department of Social Services for its administrative costs during the 2013–14 fiscal year.*

*This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.*

~~*This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2013.*~~

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 12301.01 is added to the Welfare and*  
2     *Institutions Code, to read:*

3     12301.01. (a) (1) *Notwithstanding any other law, except as*  
4     *provided in subdivision (d), the department shall implement an 8*  
5     *percent reduction in hours of service to each recipient of services*  
6     *under this article, which shall be applied to the recipient's hours*  
7     *as authorized pursuant to the most recent assessment. This*  
8     *reduction shall become effective July 1, 2013. This reduction shall*  
9     *be effective for 12 months. The reduction required by this section*  
10    *shall not preclude any reassessment to which a recipient would*  
11    *otherwise be entitled. However, hours authorized pursuant to a*  
12    *reassessment shall be subject to the 8 percent reduction required*  
13    *by this section.*

14    (2) *A request for reassessment based only on the reduction*  
15    *required in paragraph (1) may be administratively denied by the*  
16    *county.*

17    (3) *A recipient of services under this article may direct the*  
18    *manner in which the reduction of hours is applied to the recipient's*  
19    *previously authorized services.*

20    (4) *For those individuals who have a documented unmet need,*  
21    *excluding protective supervision because of the limitations on*  
22    *authorized hours under Section 12303.4, the reduction shall be*  
23    *taken first from the documented unmet need.*

24    (b) *The reduction in hours of service pursuant to paragraph (1)*  
25    *of subdivision (a) shall cease to be implemented 12 months after*  
26    *the reduction takes effect.*

27    (c) *The notice of action informing the recipient of the reduction*  
28    *pursuant to subdivision (a) shall be mailed at least 10 days prior*  
29    *to the reduction going into effect. The notice of action shall be*  
30    *understandable to the recipient and translated into all languages*  
31    *spoken by a substantial number of the public served by the In-Home*  
32    *Supportive Services Program, in accordance with Section 7295.2*  
33    *of the Government Code. The notice shall not contain any recipient*  
34    *financial or confidential identifying information other than the*  
35    *recipient's name, address, and Case Management Information*  
36    *and Payroll System (CMIPS) client identification number; and*  
37    *shall include, but not be limited to, all of the following information:*

1     (1) *The aggregate number of authorized hours before the*  
2 *reduction pursuant to subdivision (a) and the aggregate number*  
3 *of authorized hours after the reduction.*

4     (2) *That the recipient may direct the manner in which the*  
5 *reduction of authorized hours is applied to the recipient's*  
6 *previously authorized services.*

7     (3) *A county shall assess a recipient's need for supportive*  
8 *services any time that the recipient notifies the county of a need*  
9 *to adjust the supportive services hours authorized, or when there*  
10 *are other indications or expectations of a change in circumstances*  
11 *affecting the recipient's need for supportive services. Counties*  
12 *shall not require recipients to submit a medical certification form*  
13 *or a doctor's note to show evidence of a change in the recipient's*  
14 *circumstances.*

15     (d) *A recipient shall have all appeal rights otherwise provided*  
16 *for under Chapter 7 (commencing with Section 10950) of Part 2.*

17     SEC. 2. *Section 12301.02 is added to the Welfare and*  
18 *Institutions Code, to read:*

19     12301.02. (a) (1) *Notwithstanding any other law, except as*  
20 *provided in subdivision (c), the department shall implement a 7*  
21 *percent reduction in hours of service to each recipient of services*  
22 *under this article, which shall be applied to the recipient's hours*  
23 *as authorized pursuant to the most recent assessment. This*  
24 *reduction shall become effective 12 months after the*  
25 *implementation of the reduction set forth in Section 12301.01. The*  
26 *reduction required by this section shall not preclude any*  
27 *reassessment to which a recipient would otherwise be entitled.*  
28 *However, hours authorized pursuant to a reassessment shall be*  
29 *subject to the 7 percent reduction required by this section.*

30     (2) *A request for reassessment based only on the reduction*  
31 *required in paragraph (1) may be administratively denied by the*  
32 *county.*

33     (3) *A recipient of services under this article may direct the*  
34 *manner in which the reduction of hours is applied to the recipient's*  
35 *previously authorized services.*

36     (4) *For those individuals who have a documented unmet need,*  
37 *excluding protective supervision because of the limitations on*  
38 *authorized hours under Section 12303.4, the reduction shall be*  
39 *taken first from the documented unmet need.*

(b) The notice of action informing the recipient of the reduction pursuant to subdivision (a) shall be mailed at least 20 days prior to the reduction going into effect. The notice of action shall be understandable to the recipient and translated into all languages spoken by a substantial number of the public served by the In-Home Supportive Services Program, in accordance with Section 7295.2 of the Government Code. The notice shall not contain any recipient financial or confidential identifying information other than the recipient's name, address, and Case Management Information and Payroll System (CMIPS) client identification number, and shall include, but not be limited to, all of the following information:

(1) The aggregate number of authorized hours before the reduction pursuant to subdivision (a) and the aggregate number of authorized hours after the reduction.

(2) That the recipient may direct the manner in which the reduction of authorized hours is applied to the recipient's previously authorized services.

(3) A county shall assess a recipient's need for supportive services any time that the recipient notifies the county of a need to adjust the supportive services hours authorized, or when there are other indications or expectations of a change in circumstances affecting the recipient's need for supportive services. Counties shall not require recipients to submit a medical certification form or a doctor's note to show evidence of a change in the recipient's circumstances.

(c) A recipient shall have all appeal rights otherwise provided for under Chapter 7 (commencing with Section 10950) of Part 2.

(d) The reduction specified in paragraph (1) of subdivision (a) shall be ongoing and may be adjusted pursuant to Section 12301.03.

SEC. 3. Section 12301.03 is added to the Welfare and Institutions Code, to read:

12301.03. (a) It is the intent of this section to offset the reductions described in Section 12301.02 to the extent that an assessment as described in Section 12301.05 provides General Fund savings. This section shall become operative only upon certification by the State Department of Health Care Services that any necessary federal approvals to implement the assessment referenced in Section 12301.05 have been obtained. This

1 *certification shall be provided promptly to the Joint Legislative*  
2 *Budget Committee and the Department of Finance.*

3 *(b) Within 30 days after receipt of the certification described*  
4 *in subdivision (a), the Director of Finance shall perform the*  
5 *obligations described in this subdivision for the fiscal year in which*  
6 *the certification is received and for the following fiscal year.*  
7 *Specifically, the Director of Finance shall do the following:*

8 *(1) Estimate the total amount of additional funding, less refunds,*  
9 *that will be derived from the assessment for the next fiscal year.*

10 *(2) Estimate the amount of the total revenues, if any, that are*  
11 *attributable to any permitted retroactive implementation of the*  
12 *assessment.*

13 *(3) Estimate the amount of the total General Fund savings*  
14 *generated by the assessment revenues that remain after taking into*  
15 *account reductions such as the revenues attributable to any*  
16 *retroactive application of the assessment that will be allocated*  
17 *pursuant to Section 12301.04, and any General Fund costs*  
18 *associated with establishment and administration of the assessment.*  
19 *The General Fund costs shall be estimated following consultation*  
20 *with the appropriate budget subcommittees of the Legislature.*

21 *(4) Calculate, as a percentage, the amount by which the*  
22 *reduction described in Section 12301.02 is offset by General Fund*  
23 *savings. In making this calculation, the Director of Finance shall*  
24 *estimate the amount of the reduction that may be partially or*  
25 *completely offset. If the estimated General Fund savings from the*  
26 *assessment are less than the amount required to fully offset the*  
27 *reduction pursuant to Section 12301.02, then the percentage offset*  
28 *shall be proportionate to the level of General Fund savings. At no*  
29 *point may the reduction pursuant to Section 12301.02 become*  
30 *negative or go below zero.*

31 *(5) Notify the Joint Legislative Budget Committee of the*  
32 *determinations made in paragraphs (1) to (4), inclusive.*

33 *(c) On or before May 14, prior to the third fiscal year after the*  
34 *certification described in subdivision (a) is received, the Director*  
35 *of Finance shall perform the activities described in paragraphs*  
36 *(1) to (5), inclusive, of subdivision (b).*

37 *(d) Within 10 days of the effective date of any federal change*  
38 *or action that prevents or reduces the amount of General Fund*  
39 *savings received from the assessment, the Director of Health Care*  
40 *Services shall provide a notification to the Joint Legislative Budget*

1 Committee and the Director of Finance of that change. Within 30  
2 days of the receipt of this notification, the Director of Finance  
3 shall perform the activities described in paragraphs (1) to (5),  
4 inclusive, of subdivision (b).

5 (e) Notwithstanding any provision of Section 12301.02, the  
6 reduction of services required by Section 12301.02 shall be  
7 mitigated by the percentage offset determined by the Director of  
8 Finance in paragraph (4) of subdivision (b).

9 (f) (1) Any change in the percentage reduction of services as  
10 provided in Section 12301.02 shall occur on the first day of the  
11 first full month occurring 30 days after the determination provided  
12 for in subdivision (b) is made by the Director of Finance.

13 (2) Any change in the percentage reduction of services as  
14 provided in Section 12301.02 due to a determination of the  
15 Director of Finance required by subdivision (c) shall occur on  
16 July 1 of the fiscal year immediately following the determination.

17 (3) If a change in the percentage reduction of services as  
18 provided in Section 12301.02 is triggered based on a determination  
19 of the Director of Finance required by subdivision (d), that change  
20 in hours of service shall occur on July 1 after the notification  
21 referenced in subdivision (d) from the Director of Health Care  
22 Services is received, if the notification is received between the  
23 preceding September 30 and January 2. If the notification is  
24 received on any other date, then a change in hours shall occur on  
25 the first of the month that is nine months after the notification is  
26 received.

27 (g) In preparation of every Governor's Budget and for every  
28 May revision, the Director of Finance shall perform the obligation  
29 described in paragraphs (1) to (3), inclusive, of subdivision (b).

30 SEC. 4. Section 12301.04 is added to the Welfare and  
31 Institutions Code, to read:

32 12301.04. (a) There is hereby created in the State Treasury  
33 an In-Home Supportive Services Reinvestment Fund, which shall  
34 receive moneys to the extent that an assessment described in  
35 Section 12301.05 is implemented retroactively.

36 (b) The fund shall be used to provide goods or services for  
37 one-time direct reinvestments benefiting IHSS recipients.

38 (c) The fund shall be used in a manner that does not create  
39 ongoing General Fund obligations.



1     (d) Pursuant to Section 12301.03, the Director of Finance shall  
2     estimate the amount of retroactive fee due to the fund. In each  
3     fiscal year for which there are estimated retroactive revenues, the  
4     Director of Finance shall provide the State Controller a schedule  
5     of what portion of the fee shall be deposited in the fund.

6     (e) Notwithstanding Section 13340 of the Government Code,  
7     the fund is continuously appropriated to the State Department of  
8     Social Services to be reinvested, following consultation with  
9     plaintiffs in the lawsuits identified below, for the benefit of IHSS  
10    recipients in compliance with the requirements in this section and  
11    those in the settlement agreement pertaining to *Oster v.*  
12    *Lightbourne*, N.D. Cal., Case No. CV 09-04668 CW, U.S. Court  
13    of Appeals for the Ninth Circuit, Case No. 12-15366, and  
14    *Dominguez v. Brown*, N.D. Cal., Case No. CV 09-02306 CW, U.S.  
15    Court of Appeals for the Ninth Circuit, Case No. 09-16359. At  
16    least 30 days prior to allocating any funds pursuant to this section,  
17    the State Department of Social Services shall provide an  
18    expenditure plan to the Joint Legislative Budget Committee.

19    (f) Notwithstanding subdivision (e), the Legislature shall, prior  
20    to expenditure, approve the initial allocation of moneys from the  
21    fund in the annual Budget Act or other legislation.

22    (g) If the Legislature does not make the initial allocation of  
23    moneys from the fund pursuant to subdivision (f) during the regular  
24    annual budget process, the amount available for expenditure for  
25    the purposes of this section may be authorized pursuant to Section  
26    28 of the Budget Act of 2012 (Chapter 21 of the Statutes of 2012),  
27    or similar authority granted in future Budget Acts, if notification  
28    is provided to the Legislature pursuant to that section prior to the  
29    initial allocation. Moneys from the fund shall be treated as nonstate  
30    funds for the purposes of Section 28 of the Budget Act of 2012  
31    (Chapter 21 of the Statutes of 2012), or similar authority granted  
32    in future Budget Acts.

33    SEC. 5. Section 12301.05 is added to the Welfare and  
34    Institutions Code, to read:

35    12301.05. It is the intent of the Legislature to enact legislation  
36    in 2013 to authorize an assessment on home care services,  
37    including, but not limited to, home health care and in-home  
38    supportive services, consistent with the settlement agreement  
39    pertaining to *Oster v. Lightbourne*, N.D. Cal., Case No.  
40    CV09-04668 CW, U.S. Court of Appeals for the Ninth Circuit,

1 *Case No. 12-15366, and Dominguez v. Brown, N.D. Cal., Case*  
2 *No. CV 09-02306 CW, U.S. Court of Appeals for the Ninth Circuit,*  
3 *Case No. 09-16359.*

4 *SEC. 6. Section 12301.07 of the Welfare and Institutions Code*  
5 *is repealed.*

6 ~~12301.07. (a) (1) Notwithstanding any other provision of law,~~  
7 ~~if subdivision (b) of Section 3.94 of the Budget Act of 2011 is~~  
8 ~~operative, the department shall implement a 20-percent reduction~~  
9 ~~in authorized hours of service to each in-home supportive services~~  
10 ~~recipient as specified in this section, effective January 1, 2012,~~  
11 ~~which shall be applied to the recipient's hours as authorized~~  
12 ~~pursuant to his or her most recent assessment.~~

13 ~~(2) The reduction required by this section shall not preclude~~  
14 ~~any reassessment to which a recipient would otherwise be entitled.~~  
15 ~~However, hours authorized pursuant to a reassessment shall be~~  
16 ~~subject to the reduction required by this section.~~

17 ~~(3) For those recipients who have a documented unmet need,~~  
18 ~~excluding protective supervision, because of the limitations~~  
19 ~~contained in Section 12303.4, this reduction shall be applied first~~  
20 ~~to the unmet need before being applied to the authorized hours. If~~  
21 ~~the recipient believes he or she will be at serious risk of~~  
22 ~~out-of-home placement as a consequence of the reduction, the~~  
23 ~~recipient may apply for a restoration of the reduction of authorized~~  
24 ~~service hours, pursuant to subdivision (f).~~

25 ~~(4) A recipient of services under this article may direct the~~  
26 ~~manner in which the reduction of hours is applied to the recipient's~~  
27 ~~previously authorized services.~~

28 ~~(5) The reduction in service hours made pursuant to paragraph~~  
29 ~~(1) shall not apply to in-home supportive services recipients who~~  
30 ~~also receive services under Section 9560, subdivision (t) of Section~~  
31 ~~14132, and Section 14132.99.~~

32 ~~(b) The department shall work with the counties to develop a~~  
33 ~~process to allow for counties to preapprove IHSS Care Supplements~~  
34 ~~described in subdivision (f), to the extent that the process is~~  
35 ~~permissible under federal law. The preapproval process shall be~~  
36 ~~subject to the following conditions:~~

37 ~~(1) The preapproval process shall rely on the criteria for~~  
38 ~~assessing IHSS Care Supplement applications, developed pursuant~~  
39 ~~to subdivision (f).~~

1     ~~(2) Preapproval shall be granted only to individuals who would~~  
2     ~~otherwise be granted a full restoration of their hours pursuant to~~  
3     ~~subdivision (f).~~

4     ~~(3) With respect to existing recipients as of the effective date~~  
5     ~~of this section, all efforts shall be made to ensure that counties~~  
6     ~~complete the process on or before a specific date, as determined~~  
7     ~~by the department, in consultation with counties in order to allow~~  
8     ~~for the production, printing, and mailing of notices to be issued to~~  
9     ~~remaining recipients who are not granted preapproval and who~~  
10    ~~thereby are subject to the reduction pursuant to this section.~~

11    ~~(4) The department shall work with counties to determine how~~  
12    ~~to apply a preapproval process with respect to new applicants to~~  
13    ~~the IHSS program who apply after the effective date of this section.~~

14    ~~(e) The notice of action informing each recipient who is not~~  
15    ~~preapproved for an IHSS Care Supplement pursuant to subdivision~~  
16    ~~(b) shall be mailed at least 15 days prior to the reduction going~~  
17    ~~into effect. The notice of action shall be understandable to the~~  
18    ~~recipient and translated into all languages spoken by a substantial~~  
19    ~~number of the public served by the In-Home Supportive Services~~  
20    ~~program, in accordance with Section 7295.2 of the Government~~  
21    ~~Code. The notice shall not contain any recipient financial or~~  
22    ~~confidential identifying information other than the recipient's~~  
23    ~~name, address, and Case Management Information and Payroll~~  
24    ~~System (CMIPS) client identification number, and shall include,~~  
25    ~~but not be limited to, all of the following information:~~

26    ~~(1) The aggregate number of authorized hours before the~~  
27    ~~reduction pursuant to paragraph (1) of subdivision (a) and the~~  
28    ~~aggregate number of authorized hours after the reduction.~~

29    ~~(2) That the recipient may direct the manner in which the~~  
30    ~~reduction of authorized hours is applied to the recipient's~~  
31    ~~previously authorized services.~~

32    ~~(3) How all or part of the reduction may be restored, as set forth~~  
33    ~~in subdivision (f), if the recipient believes he or she will be at~~  
34    ~~serious risk of out-of-home placement as a consequence of the~~  
35    ~~reduction.~~

36    ~~(d) The department shall inform providers of any reduction to~~  
37    ~~recipient hours through a statement on provider timesheets, after~~  
38    ~~consultation with counties.~~

39    ~~(e) The IHSS Care Supplement application process described~~  
40    ~~in subdivision (f) shall be completed before a request for a state~~

1 hearing is submitted. If the IHSS Care Supplement application is  
2 filed within 15 days of the notice of action required by subdivision  
3 (e), or before the effective date of the reduction, the recipient shall  
4 be eligible for aid paid pending. A revised notice of action shall  
5 be issued by the county following evaluation of the IHSS Care  
6 Supplement application.

7 (f) (1) Any aged, blind, or disabled individual who is eligible  
8 for services under this article who receives a notice of action  
9 indicating that his or her services will be reduced under subdivision  
10 (a) but who believes he or she is at serious risk of out-of-home  
11 placement unless all or part of the reduction is restored may submit  
12 an IHSS Care Supplement application. When a recipient submits  
13 an IHSS Care Supplement application within 15 days of receiving  
14 the reduction notice or prior to the implementation of the reduction,  
15 the recipient's in-home supportive services shall continue at the  
16 level authorized by the most recent assessment, prior to any  
17 reduction, until the county finds that the recipient does or does not  
18 require restoration of any hours through the IHSS Care Supplement.  
19 If the recipient disagrees with the county's determination  
20 concerning the need for the IHSS Care Supplement, the recipient  
21 may request a hearing on that determination.

22 (2) The department shall develop an assessment tool, in  
23 consultation with stakeholders, to be used by the counties to  
24 determine if a recipient is at serious risk of out-of-home placement  
25 as a consequence of the reduction of services pursuant to this  
26 section. The assessment tool shall be developed utilizing standard  
27 of care criteria for relevant out-of-home placements that serve  
28 individuals who are aged, blind, or who have disabilities and who  
29 would qualify for IHSS if living at home, including, but not limited  
30 to, criteria set forth in Chapter 7.0 of the Manual of Criteria for  
31 Medi-Cal Authorization published by the State Department of  
32 Health Care Services, as amended April 15, 2004, and the IHSS  
33 uniform assessment guidelines.

34 (3) Counties shall give a high priority to prompt screening of  
35 persons specified in this section to determine their need for an  
36 IHSS Care Supplement.

37 (g) (1) Notwithstanding the rulemaking provisions of the  
38 Administrative Procedure Act (Chapter 3.5 (commencing with  
39 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
40 Code), the department may implement and administer this section

1 through all-county letters or similar instruction from the department  
2 until regulations are adopted. The department shall adopt  
3 emergency regulations implementing this section no later than  
4 March 1, 2013. The department may readopt any emergency  
5 regulation authorized by this section that is the same as or  
6 substantially equivalent to an emergency regulation previously  
7 adopted under this section.

8 (2) The initial adoption of emergency regulations implementing  
9 this section and one readoption of emergency regulations  
10 authorized by this subdivision shall be deemed an emergency and  
11 necessary for the immediate preservation of the public peace,  
12 health, safety, or general welfare. Initial emergency regulations  
13 and the one readoption of emergency regulations authorized by  
14 this section shall be exempt from review by the Office of  
15 Administrative Law. The initial emergency regulations and the  
16 one readoption of emergency regulations authorized by this section  
17 shall be submitted to the Office of Administrative Law for filing  
18 with the Secretary of State and each shall remain in effect for no  
19 more than 180 days, by which time final regulations may be  
20 adopted.

21 (h) If the Director of Health Care Services determines that  
22 federal approval is necessary to implement this section, this section  
23 shall be implemented only after any state plan amendments  
24 required pursuant to Section 14132.95 are approved.

25 *SEC. 7. Section 12306.1 of the Welfare and Institutions Code,*  
26 *as amended by Section 39 of Chapter 439 of the Statutes of 2012,*  
27 *is amended to read:*

28 12306.1. (a) When any increase in provider wages or benefits  
29 is negotiated or agreed to by a public authority or nonprofit  
30 consortium under Section 12301.6, then the county shall use  
31 county-only funds to fund both the county share and the state share,  
32 including employment taxes, of any increase in the cost of the  
33 program, unless otherwise provided for in the annual Budget Act  
34 or appropriated by statute. No increase in wages or benefits  
35 negotiated or agreed to pursuant to this section shall take effect  
36 unless and until, prior to its implementation, the department has  
37 obtained the approval of the State Department of Health Care  
38 Services for the increase pursuant to a determination that it is  
39 consistent with federal law and to ensure federal financial  
40 participation for the services under Title XIX of the federal Social

1 Security Act, and unless and until all of the following conditions  
2 have been met:

3 (1) Each county has provided the department with  
4 documentation of the approval of the county board of supervisors  
5 of the proposed public authority or nonprofit consortium rate,  
6 including wages and related expenditures. The documentation shall  
7 be received by the department before the department and the State  
8 Department of Health Care Services may approve the increase.

9 (2) Each county has met department guidelines and regulatory  
10 requirements as a condition of receiving state participation in the  
11 rate.

12 (b) Any rate approved pursuant to subdivision (a) shall take  
13 effect commencing on the first day of the month subsequent to the  
14 month in which final approval is received from the department.  
15 The department may grant approval on a conditional basis, subject  
16 to the availability of funding.

17 (c) The state shall pay 65 percent, and each county shall pay 35  
18 percent, of the nonfederal share of wage and benefit increases  
19 negotiated by a public authority or nonprofit consortium pursuant  
20 to Section 12301.6 and associated employment taxes, only in  
21 accordance with subdivisions (d) to (f), inclusive.

22 (d) (1) The state shall participate as provided in subdivision (c)  
23 in wages up to seven dollars and fifty cents (\$7.50) per hour and  
24 individual health benefits up to sixty cents (\$0.60) per hour for all  
25 public authority or nonprofit consortium providers. This paragraph  
26 shall be operative for the 2000–01 fiscal year and each year  
27 thereafter unless otherwise provided in paragraphs (2), (3), (4),  
28 and (5), and without regard to when the wage and benefit increase  
29 becomes effective.

30 (2) The state shall participate as provided in subdivision (c) in  
31 a total of wages and individual health benefits up to nine dollars  
32 and ten cents (\$9.10) per hour, if wages have reached at least seven  
33 dollars and fifty cents (\$7.50) per hour. Counties shall determine,  
34 pursuant to the collective bargaining process provided for in  
35 subdivision (c) of Section 12301.6, what portion of the nine dollars  
36 and ten cents (\$9.10) per hour shall be used to fund wage increases  
37 above seven dollars and fifty cents (\$7.50) per hour or individual  
38 health benefit increases, or both. This paragraph shall be operative  
39 for the 2001–02 fiscal year and each fiscal year thereafter, unless  
40 otherwise provided in paragraphs (3), (4), and (5).

1 (3) The state shall participate as provided in subdivision (c) in  
2 a total of wages and individual health benefits up to ten dollars  
3 and ten cents (\$10.10) per hour, if wages have reached at least  
4 seven dollars and fifty cents (\$7.50) per hour. Counties shall  
5 determine, pursuant to the collective bargaining process provided  
6 for in subdivision (c) of Section 12301.6, what portion of the ten  
7 dollars and ten cents (\$10.10) per hour shall be used to fund wage  
8 increases above seven dollars and fifty cents (\$7.50) per hour or  
9 individual health benefit increases, or both. This paragraph shall  
10 be operative commencing with the next state fiscal year for which  
11 the May Revision forecast of General Fund revenue, excluding  
12 transfers, exceeds by at least 5 percent, the most current estimate  
13 of revenue, excluding transfers, for the year in which paragraph  
14 (2) became operative.

15 (4) The state shall participate as provided in subdivision (c) in  
16 a total of wages and individual health benefits up to eleven dollars  
17 and ten cents (\$11.10) per hour, if wages have reached at least  
18 seven dollars and fifty cents (\$7.50) per hour. Counties shall  
19 determine, pursuant to the collective bargaining process provided  
20 for in subdivision (c) of Section 12301.6, what portion of the eleven  
21 dollars and ten cents (\$11.10) per hour shall be used to fund wage  
22 increases or individual health benefits, or both. This paragraph  
23 shall be operative commencing with the next state fiscal year for  
24 which the May Revision forecast of General Fund revenue,  
25 excluding transfers, exceeds by at least 5 percent, the most current  
26 estimate of revenues, excluding transfers, for the year in which  
27 paragraph (3) became operative.

28 (5) The state shall participate as provided in subdivision (c) in  
29 a total cost of wages and individual health benefits up to twelve  
30 dollars and ten cents (\$12.10) per hour, if wages have reached at  
31 least seven dollars and fifty cents (\$7.50) per hour. Counties shall  
32 determine, pursuant to the collective bargaining process provided  
33 for in subdivision (c) of Section 12301.6, what portion of the  
34 twelve dollars and ten cents (\$12.10) per hour shall be used to fund  
35 wage increases above seven dollars and fifty cents (\$7.50) per hour  
36 or individual health benefit increases, or both. This paragraph shall  
37 be operative commencing with the next state fiscal year for which  
38 the May Revision forecast of General Fund revenue, excluding  
39 transfers, exceeds by at least 5 percent, the most current estimate

1 of revenues, excluding transfers, for the year in which paragraph  
2 (4) became operative.

3 ~~(6) Notwithstanding paragraphs (2) to (5), inclusive, the state~~  
4 ~~shall participate as provided in subdivision (c) in a total cost of~~  
5 ~~wages up to nine dollars and fifty cents (\$9.50) per hour and in~~  
6 ~~individual health benefits up to sixty cents (\$0.60) per hour. This~~  
7 ~~paragraph shall become operative on July 1, 2009.~~

8 ~~(7) (A) The Legislature finds and declares that injunctions~~  
9 ~~issued by the courts have prevented the state from implementing~~  
10 ~~the changes described in paragraph (6) during the pendency of~~  
11 ~~litigation. To avoid confusion for providers, recipients, and other~~  
12 ~~stakeholders, it is therefore the intent of the Legislature to~~  
13 ~~temporarily suspend the reductions described in that paragraph~~  
14 ~~until July 1, 2012, to allow the litigation to reach a final result.~~

15 ~~(B) Paragraph (6) shall not be implemented until July 1, 2012,~~  
16 ~~and as of that date shall only be implemented if a court of~~  
17 ~~competent jurisdiction has issued an order, that is not subject to~~  
18 ~~appeal or for which the time to appeal has expired, upholding its~~  
19 ~~validity.~~

20 (e) (1) On or before May 14 immediately prior to the fiscal  
21 year for which state participation is provided under paragraphs (2)  
22 to (5), inclusive, of subdivision (d), the Director of Finance shall  
23 certify to the Governor, the appropriate committees of the  
24 Legislature, and the department that the condition for each  
25 subdivision to become operative has been met.

26 (2) For purposes of certifications under paragraph (1), the  
27 General Fund revenue forecast, excluding transfers, that is used  
28 for the relevant fiscal year shall be calculated in a manner that is  
29 consistent with the definition of General Fund revenues, excluding  
30 transfers, that was used by the Department of Finance in the  
31 2000–01 Governor’s Budget revenue forecast as reflected on  
32 Schedule 8 of the Governor’s Budget.

33 (f) Any increase in overall state participation in wage and benefit  
34 increases under paragraphs (2) to (5), inclusive, of subdivision (d),  
35 shall be limited to a wage and benefit increase of one dollar (\$1)  
36 per hour with respect to any fiscal year. With respect to actual  
37 changes in specific wages and health benefits negotiated through  
38 the collective bargaining process, the state shall participate in the  
39 costs, as approved in subdivision (c), up to the maximum levels



1 as provided under paragraphs (2) to ~~(6)~~, (5), inclusive, of  
2 subdivision (d).

3 (g) For the period during which Section 12306.15 is operative,  
4 each county's share of the costs of negotiated wage and benefit  
5 increases specified in subdivision (c) shall remain, but the County  
6 IHSS Maintenance of Effort pursuant to Section 12306.15 shall  
7 be in lieu of that share.

8 (h) This section shall become inoperative only if Chapter 45 of  
9 the Statutes of 2012 is deemed inoperative pursuant to Section 15  
10 of that chapter.

11 *SEC. 8. Section 12306.1 of the Welfare and Institutions Code,*  
12 *as amended by Section 38 of Chapter 439 of the Statutes of 2012,*  
13 *is amended to read:*

14 12306.1. (a) When any increase in provider wages or benefits  
15 is negotiated or agreed to by a public authority or nonprofit  
16 consortium under Section 12301.6, then the county shall use  
17 county-only funds to fund both the county share and the state share,  
18 including employment taxes, of any increase in the cost of the  
19 program, unless otherwise provided for in the annual Budget Act  
20 or appropriated by statute. No increase in wages or benefits  
21 negotiated or agreed to pursuant to this section shall take effect  
22 unless and until, prior to its implementation, the department has  
23 obtained the approval of the State Department of Health Care  
24 Services for the increase pursuant to a determination that it is  
25 consistent with federal law and to ensure federal financial  
26 participation for the services under Title XIX of the federal Social  
27 Security Act, and unless and until all of the following conditions  
28 have been met:

29 (1) Each county has provided the department with  
30 documentation of the approval of the county board of supervisors  
31 of the proposed public authority or nonprofit consortium rate,  
32 including wages and related expenditures. The documentation shall  
33 be received by the department before the department and the State  
34 Department of Health Care Services may approve the increase.

35 (2) Each county has met department guidelines and regulatory  
36 requirements as a condition of receiving state participation in the  
37 rate.

38 (b) Any rate approved pursuant to subdivision (a) shall take  
39 effect commencing on the first day of the month subsequent to the  
40 month in which final approval is received from the department.

1 The department may grant approval on a conditional basis, subject  
2 to the availability of funding.

3 (c) The state shall pay 65 percent, and each county shall pay 35  
4 percent, of the nonfederal share of wage and benefit increases  
5 negotiated by a public authority or nonprofit consortium pursuant  
6 to Section 12301.6 and associated employment taxes, only in  
7 accordance with subdivisions (d) to (f), inclusive.

8 (d) (1) The state shall participate as provided in subdivision (c)  
9 in wages up to seven dollars and fifty cents (\$7.50) per hour and  
10 individual health benefits up to sixty cents (\$0.60) per hour for all  
11 public authority or nonprofit consortium providers. This paragraph  
12 shall be operative for the 2000–01 fiscal year and each year  
13 thereafter unless otherwise provided in paragraphs (2), (3), (4),  
14 and (5), and without regard to when the wage and benefit increase  
15 becomes effective.

16 (2) The state shall participate as provided in subdivision (c) in  
17 a total of wages and individual health benefits up to nine dollars  
18 and ten cents (\$9.10) per hour, if wages have reached at least seven  
19 dollars and fifty cents (\$7.50) per hour. Counties shall determine,  
20 pursuant to the collective bargaining process provided for in  
21 subdivision (c) of Section 12301.6, what portion of the nine dollars  
22 and ten cents (\$9.10) per hour shall be used to fund wage increases  
23 above seven dollars and fifty cents (\$7.50) per hour or individual  
24 health benefit increases, or both. This paragraph shall be operative  
25 for the 2001–02 fiscal year and each fiscal year thereafter, unless  
26 otherwise provided in paragraphs (3), (4), and (5).

27 (3) The state shall participate as provided in subdivision (c) in  
28 a total of wages and individual health benefits up to ten dollars  
29 and ten cents (\$10.10) per hour, if wages have reached at least  
30 seven dollars and fifty cents (\$7.50) per hour. Counties shall  
31 determine, pursuant to the collective bargaining process provided  
32 for in subdivision (c) of Section 12301.6, what portion of the ten  
33 dollars and ten cents (\$10.10) per hour shall be used to fund wage  
34 increases above seven dollars and fifty cents (\$7.50) per hour or  
35 individual health benefit increases, or both. This paragraph shall  
36 be operative commencing with the next state fiscal year for which  
37 the May Revision forecast of General Fund revenue, excluding  
38 transfers, exceeds by at least 5 percent, the most current estimate  
39 of revenue, excluding transfers, for the year in which paragraph  
40 (2) became operative.

1 (4) The state shall participate as provided in subdivision (c) in  
2 a total of wages and individual health benefits up to eleven dollars  
3 and ten cents (\$11.10) per hour, if wages have reached at least  
4 seven dollars and fifty cents (\$7.50) per hour. Counties shall  
5 determine, pursuant to the collective bargaining process provided  
6 for in subdivision (c) of Section 12301.6, what portion of the eleven  
7 dollars and ten cents (\$11.10) per hour shall be used to fund wage  
8 increases or individual health benefits, or both. This paragraph  
9 shall be operative commencing with the next state fiscal year for  
10 which the May Revision forecast of General Fund revenue,  
11 excluding transfers, exceeds by at least 5 percent, the most current  
12 estimate of revenues, excluding transfers, for the year in which  
13 paragraph (3) became operative.

14 (5) The state shall participate as provided in subdivision (c) in  
15 a total cost of wages and individual health benefits up to twelve  
16 dollars and ten cents (\$12.10) per hour, if wages have reached at  
17 least seven dollars and fifty cents (\$7.50) per hour. Counties shall  
18 determine, pursuant to the collective bargaining process provided  
19 for in subdivision (c) of Section 12301.6, what portion of the  
20 twelve dollars and ten cents (\$12.10) per hour shall be used to fund  
21 wage increases above seven dollars and fifty cents (\$7.50) per hour  
22 or individual health benefit increases, or both. This paragraph shall  
23 be operative commencing with the next state fiscal year for which  
24 the May Revision forecast of General Fund revenue, excluding  
25 transfers, exceeds by at least 5 percent, the most current estimate  
26 of revenues, excluding transfers, for the year in which paragraph  
27 (4) became operative.

28 ~~(6) Notwithstanding paragraphs (2) to (5), inclusive, the state~~  
29 ~~shall participate as provided in subdivision (c) in a total cost of~~  
30 ~~wages up to nine dollars and fifty cents (\$9.50) per hour and in~~  
31 ~~individual health benefits up to sixty cents (\$0.60) per hour. This~~  
32 ~~paragraph shall become operative on July 1, 2009.~~

33 ~~(7) (A) The Legislature finds and declares that injunctions issued~~  
34 ~~by the courts have prevented the state from implementing the~~  
35 ~~changes described in paragraph (6) during the pendency of~~  
36 ~~litigation. To avoid confusion for providers, recipients, and other~~  
37 ~~stakeholders, it is therefore the intent of the Legislature to~~  
38 ~~temporarily suspend the reductions described in that paragraph~~  
39 ~~until July 1, 2012, to allow the litigation to reach a final result.~~

~~(B) Paragraph (6) shall not be implemented until July 1, 2012, and as of that date shall only be implemented if a court of competent jurisdiction has issued an order, that is not subject to appeal or for which the time to appeal has expired, upholding its validity.~~

(e) (1) On or before May 14 immediately prior to the fiscal year for which state participation is provided under paragraphs (2) to (5), inclusive, of subdivision (d), the Director of Finance shall certify to the Governor, the appropriate committees of the Legislature, and the department that the condition for each subdivision to become operative has been met.

(2) For purposes of certifications under paragraph (1), the General Fund revenue forecast, excluding transfers, that is used for the relevant fiscal year shall be calculated in a manner that is consistent with the definition of General Fund revenues, excluding transfers, that was used by the Department of Finance in the 2000–01 Governor’s Budget revenue forecast as reflected on Schedule 8 of the Governor’s Budget.

(f) Any increase in overall state participation in wage and benefit increases under paragraphs (2) to (5), inclusive, of subdivision (d), shall be limited to a wage and benefit increase of one dollar (\$1) per hour with respect to any fiscal year. With respect to actual changes in specific wages and health benefits negotiated through the collective bargaining process, the state shall participate in the costs, as approved in subdivision (c), up to the maximum levels as provided under paragraphs (2) to ~~(6)~~, (5), inclusive, of subdivision (d).

(g) This section shall become operative only if Chapter 45 of the Statutes of 2012 is deemed inoperative pursuant to Section 15 of that chapter.

*SEC. 9. Section 12309 of the Welfare and Institutions Code is amended to read:*

12309. (a) In order to assure that in-home supportive services are delivered in all counties in a uniform manner, the department shall develop a uniform needs assessment tool.

(b) (1) Each county shall, in administering this article, use the uniform needs assessment tool developed pursuant to subdivision (a) in collecting and evaluating information.

(2) For purposes of paragraph (1), “information” includes, but is not limited to, all of the following:

1 (A) The recipient's living environment.

2 (B) Alternative resources.

3 (C) The recipient's functional abilities.

4 (c) (1) The uniform needs assessment tool developed pursuant  
5 to subdivision (a) shall evaluate the recipient's functioning in  
6 activities of daily living and instrumental activities of daily living.

7 (2) The recipient's functioning shall be quantified, using the  
8 general hierarchical five-point scale for ranking each function, as  
9 specified in subdivision (d).

10 (d) The recipient's functioning ranks shall be as follows:

11 (1) Rank one. A recipient's functioning shall be classified as  
12 rank one if his or her functioning is independent, and he or she is  
13 able to perform the function without human assistance, although  
14 the recipient may have difficulty in performing the function, but  
15 the completion of the function, with or without a device or mobility  
16 aid, poses no substantial risk to his or her safety.

17 (2) Rank two. A recipient's functioning shall be classified as  
18 rank two if he or she is able to perform a function, but needs verbal  
19 assistance, such as reminding, guidance, or encouragement.

20 (3) Rank three. A recipient's functioning shall be classified as  
21 rank three if he or she can perform the function with some human  
22 assistance, including, but not limited to, direct physical assistance  
23 from a provider.

24 (4) Rank four. A recipient's functioning shall be classified as  
25 rank four if he or she can perform a function, but only with  
26 substantial human assistance.

27 (5) Rank five. A recipient's functioning shall be classified as  
28 rank five if he or she cannot perform the function, with or without  
29 human assistance.

30 ~~(e) (1) Notwithstanding any other law, and effective September~~  
31 ~~1, 2009, individuals shall be eligible for each domestic or related~~  
32 ~~service only if assessed at a rank four or five, as defined in~~  
33 ~~subdivision (d), in the activity of daily living relating to that~~  
34 ~~service. The activities of daily living that relate to domestic and~~  
35 ~~related services are defined in regulations and include housework,~~  
36 ~~laundry, shopping and errands, meal preparation, and meal cleanup.~~  
37 ~~The rank for each domestic and related service shall be determined~~  
38 ~~based on an assessment of need for supportive services by the~~  
39 ~~county, in accordance with this section and the hourly task~~  
40 ~~guidelines as defined by Section 12301.2. This paragraph does not~~

1 apply to individuals meeting one of the conditions specified in  
2 paragraph (2):

3 (2) Paragraph (1) shall not apply to individuals authorized to  
4 receive either protective supervision pursuant to subdivision (b)  
5 of Section 12300 and Section 12301.21 or paramedical services  
6 pursuant to Section 12300.1, or to individuals authorized to receive  
7 over 120 hours of services per month.

8 (3) To the extent necessary to maintain federal financial  
9 participation, the director may waive any or all of the provisions  
10 of paragraph (2), after consultation with the State Department of  
11 Health Care Services.

12 (f) A recipient shall be assigned a functional index score. The  
13 functional index score for a recipient shall be a weighted average  
14 based on the individual functional index rankings, as described in  
15 subdivision (d), to provide a single measure of a recipient's relative  
16 dependence on human assistance for performance of activities of  
17 daily living that are used in the assessment of services provided  
18 pursuant to this article.

19 (g) (1) Notwithstanding the rulemaking provisions of the  
20 Administrative Procedure Act (Chapter 3.5 (commencing with  
21 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
22 Code) the department may implement and administer this section  
23 through all-county letters or similar instruction from the department  
24 until regulations are adopted. The department shall adopt  
25 emergency regulations implementing this section no later than July  
26 1, 2010. The department may readopt any emergency regulation  
27 authorized by this section that is the same as or substantially  
28 equivalent to an emergency regulation previously adopted under  
29 this section.

30 (2) The initial adoption of emergency regulations implementing  
31 this section and one readoption of emergency regulations shall be  
32 deemed an emergency and necessary for the immediate  
33 preservation of the public peace, health, safety, or general welfare.  
34 Initial emergency regulations and the one readoption of emergency  
35 regulations authorized by this subdivision shall be exempt from  
36 review and approval by the Office of Administrative Law. The  
37 initial emergency regulations and the one readoption of emergency  
38 regulations authorized by this subdivision shall be submitted to  
39 the Office of Administrative Law for filing with the Secretary of

1 ~~State and each shall remain in effect for no more than 180 days,~~  
2 ~~by which time final regulations may be adopted.~~

3 ~~(h) Subdivisions (e), (f), and (g) shall become operative on~~  
4 ~~September 1, 2009.~~

5 ~~(i) (1) The Legislature finds and declares that injunctions issued~~  
6 ~~by the courts have prevented the state from implementing the~~  
7 ~~changes described in subdivisions (e), (f), and (g) during the~~  
8 ~~pendency of litigation. To avoid confusion for providers, recipients,~~  
9 ~~and other stakeholders, it is therefore the intent of the Legislature~~  
10 ~~to temporarily suspend the reductions described in those~~  
11 ~~subdivisions until July 1, 2012, to allow the litigation to reach a~~  
12 ~~final result.~~

13 ~~(2) Notwithstanding subdivision (h) or any other provision of~~  
14 ~~law, subdivisions (e), (f), and (g) shall not be implemented until~~  
15 ~~July 1, 2012, and as by that date shall only be implemented if a~~  
16 ~~court of competent jurisdiction has issued an order, that is not~~  
17 ~~subject to appeal or for which the time to appeal has expired,~~  
18 ~~upholding their validity.~~

19 *SEC. 10. Section 12309.2 of the Welfare and Institutions Code*  
20 *is repealed.*

21 ~~12309.2. (a) Notwithstanding any other law, except as provided~~  
22 ~~in subdivision (b), and pursuant to subdivision (c) of Section 12309,~~  
23 ~~and effective September 1, 2009, eligibility for in-home supportive~~  
24 ~~services provided pursuant to Article 7 (commencing with Section~~  
25 ~~12300) of Chapter 3 shall also include functional index scores~~  
26 ~~calculated pursuant to subdivision (f) of Section 12309, as follows:~~

27 ~~(1) Individuals with a functional index score of 2.0 and above~~  
28 ~~shall be eligible to receive all appropriate in-home supportive~~  
29 ~~services provided pursuant to this article.~~

30 ~~(2) Individuals with a functional index score below 2.0 shall~~  
31 ~~not be eligible for any in-home supportive services provided~~  
32 ~~pursuant to this article.~~

33 ~~(3) Paragraph (2) shall not apply to individuals authorized to~~  
34 ~~receive protective supervision pursuant to subdivision (b) of~~  
35 ~~Section 12300 and Section 12301.21 or paramedical services~~  
36 ~~pursuant to Section 12300.1, or to individuals authorized to receive~~  
37 ~~over 120 hours of services per month pursuant to Section 12301.2.~~

38 ~~(4) To the extent necessary to maintain federal financial~~  
39 ~~participation, the director may waive any or all of the provisions~~

1 of paragraph (3), after consultation with the State Department of  
2 Health Care Services:

3 (b) The department shall modify the notice of action forms to  
4 inform individuals whose hours are reduced or for whom eligibility  
5 is eliminated by the changes made to Section 12309 or this section  
6 by the act adding this section of their functional rank and functional  
7 index score. The form shall be modified no later than September  
8 1, 2009.

9 (c) (1) Notwithstanding the rulemaking provisions of the  
10 Administrative Procedure Act, Chapter 3.5 (commencing with  
11 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
12 Code, the department may implement and administer this section  
13 through all-county letters or similar instruction from the department  
14 until regulations are adopted. The department shall adopt  
15 emergency regulations implementing this section no later than July  
16 1, 2010. The department may readopt any emergency regulation  
17 authorized by this section that is the same as or substantially  
18 equivalent to an emergency regulation previously adopted under  
19 this section.

20 (2) The initial adoption of emergency regulations implementing  
21 this section and the one readoption of emergency regulations  
22 authorized by this subdivision shall be deemed an emergency and  
23 necessary for the immediate preservation of the public peace,  
24 health, safety, or general welfare. Initial emergency regulations  
25 and the one readoption of emergency regulations authorized by  
26 this section shall be exempt from review and approval by the Office  
27 of Administrative Law. The initial emergency regulations and the  
28 one readoption of emergency regulations authorized by this section  
29 shall be submitted to the Office of Administrative Law for filing  
30 with the Secretary of State and each shall remain in effect for no  
31 more than 180 days, by which time final regulations may be  
32 adopted.

33 (d) This section shall become operative on September 1, 2009.

34 (e) (1) The Legislature finds and declares that injunctions issued  
35 by the courts have prevented the state from implementing the  
36 changes described in this section during the pendency of litigation.  
37 To avoid confusion for providers, recipients, and other  
38 stakeholders, it is therefore the intent of the Legislature to  
39 temporarily suspend the reductions described in this section until  
40 July 1, 2012, to allow the litigation to reach a final result.



1     ~~(2) Notwithstanding subdivision (d) or any other provision of~~  
2     ~~law, this section shall not be implemented until July 1, 2012, and~~  
3     ~~as of that date shall only be implemented if a court of competent~~  
4     ~~jurisdiction has issued an order, that is not subject to appeal or for~~  
5     ~~which the time to appeal has expired, upholding its validity.~~

6     *SEC. 11. (a) Notwithstanding the rulemaking provisions of*  
7     *the Administrative Procedure Act (Chapter 3.5 (commencing with*  
8     *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*  
9     *Code), the State Department of Social Services and the State*  
10    *Department of Health Care Services may implement and administer*  
11    *this act through all-county letters or similar instruction from their*  
12    *respective departments until regulations are adopted. Each*  
13    *department shall adopt emergency regulations implementing this*  
14    *section no later than July 1, 2015. Each department may readopt*  
15    *any emergency regulation authorized by this section that is the*  
16    *same as or substantially equivalent to an emergency regulation*  
17    *previously adopted under this section.*

18    *(b) For each department identified in subdivision (a), the initial*  
19    *adoption of emergency regulations implementing this act and one*  
20    *readoption of emergency regulations authorized by this subdivision*  
21    *shall be deemed an emergency and necessary for the immediate*  
22    *preservation of the public peace, health, safety, or general welfare.*  
23    *Initial emergency regulations and the one readoption of emergency*  
24    *regulations authorized by this section shall be exempt from review*  
25    *by the Office of Administrative Law. The initial emergency*  
26    *regulations and the one readoption of emergency regulations*  
27    *authorized by this section shall be submitted to the Office of*  
28    *Administrative Law for filing with the Secretary of State and each*  
29    *shall remain in effect for no more than 180 days, by which time*  
30    *final regulations may be adopted.*

31    *SEC. 12. The amount of one thousand dollars (\$1,000) is*  
32    *hereby appropriated from the General Fund to the State*  
33    *Department of Social Services for its administrative costs during*  
34    *the 2013–14 fiscal year.*

35    *SEC. 13. This act is a bill providing for appropriations related*  
36    *to the Budget Bill within the meaning of subdivision (e) of Section*  
37    *12 of Article IV of the California Constitution, has been identified*  
38    *as related to the budget in the Budget Bill, and shall take effect*  
39    *immediately.*

- 1 SECTION 1. ~~It is the intent of the Legislature to enact statutory~~
- 2 ~~changes relating to the Budget Act of 2013.~~

O